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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

James D. Marks et al.

Serial No.: 09/249,529

Filed: February 12, 1999

For: METHODS OF SELECTING  
INTERNALIZING ANTIBODIES



Group Art Unit: 1643

San Francisco, California

Assistant Commissioner of Patents  
Washington, D.C. 20231

**POWER OF ATTORNEY BY ASSIGNEE AND**

**EXCLUSION OF INVENTORS UNDER 37 C.F.R. 3.71**

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby appoints the practitioners of Majestic, Parsons, Siebert & Hsue P.C. who are associated with the Customer Number provided below to prosecute this patent application, to transact all business in the U.S. Patent and Trademark Office connected therewith, and to receive the original Letters Patent, said appointment to be to the exclusion of the inventors and their attorney(s) in

accordance with the provisions of 37 C.F.R. 3.71. I further direct that all telephone calls and all correspondence relative to this patent application be addressed to that Customer Number.

Customer No:



An assignment of the entire interest in the above-identified subject application is submitted herewith for recording.

ASSIGNEE:

THE REGENTS OF THE UNIVERSITY  
OF CALIFORNIA

Dated: June 1, 1999

By: Linda S. Stevenson

(Atty. Docket: 2500.116US1)  
(UC Case No.: 98-232-2)

Linda S. Stevenson  
Office of Technology Transfer  
1111 Franklin Street, Twelfth Floor  
Oakland, California 94607-5200  
Title: Principal Prosecution Analyst

3

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San Francisco, California

Assistant Commissioner of Patents  
Washington, D.C. 20231

DECLARATION CLAIMING SMALL ENTITY STATUS -  
SMALL BUSINESS CONCERN

Sir:

I, Linda S. Stevenson, hereby declare as follows:

I am Principal Prosecution Analyst of The Regents of the University of California, located at 1111 Franklin Street, 12<sup>th</sup> Floor, Oakland, CA 94607-5200 ("the Company").

The Company qualifies as a Small Business Concern, under the definition given below, for the purpose of paying reduced fees to the United States Patent and Trademark Office in connection with the prosecution and maintenance of the above-identified patent application. Exclusive rights to the invention of the above-identified patent application have been conveyed to and remain with the Company.

→ 3

By "Small Business Concern" is meant any business concern (1) meeting the size standards set forth in 13 CFR Part 121, and (2) which has not assigned, granted, conveyed, or licensed, and is under no obligation under contract or law to assign, grant, convey or license, any rights in the invention to any person who could not be classified as an Independent Inventor if that person had made the invention, or to any concern which would not qualify as a Small Business Concern or a Nonprofit Organization. Concerns are "Affiliates" of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both. The number of employees of the business concern is the average over the fiscal year of the persons employed during each of the pay periods of the fiscal year. Employees are those persons employed on a full-time, part-time or temporary basis during the previous fiscal year of the concern.

By "Independent Inventor" is meant any inventor who (1) has not assigned, granted, conveyed, or licensed, and (2) is under no obligation under contract or law to assign, grant, convey, or license, any rights in the invention to any person who could not likewise be classified as an Independent Inventor if that person had made the invention, or to any concern which would not qualify as a Small Business Concern or a Nonprofit Organization.

By "Nonprofit Organization" is meant any of the following:

- (1) a university or other institution of higher education located in any country; or
- (2) an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S. 501(c)(3)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S. 501(a)); or
- (3) any nonprofit scientific or educational organization qualified under a nonprofit organization statute of a state of this country (35 U.S.C. 201(i)); or

(4) any nonprofit organization located in a foreign country which would qualify as a nonprofit organization under sub-paragraphs (2) or (3) immediately above if it were located in this country.

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earliest of the issue fee or any maintenance fee due after the date on which status as a small entity is no longer appropriate.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize validity of the application, any patent issuing thereon, or any patent to which this statement is directed.

Date: June 1, 1999

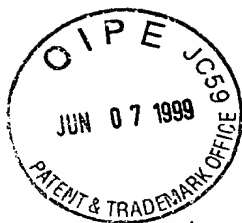
Linda S. Stevenson  
Linda S. Stevenson

(Atty. Docket: 2500.116US1)

#3

PATENT APPLICATION DECLARATION

(Attorney's Docket No.: 2500.116US1)



Each of the Applicants named below hereby declares as follows:

1. My residence, post office address and country of citizenship given below are true and correct.

2. I believe I am the original, first and joint inventor of the subject matter which is claimed and for which a patent is sought in the patent application entitled "METHODS OF SELECTING INTERNALIZING ANTIBODIES," Serial No. 09/249,529, filed February 12, 1999, and I have reviewed and understand the contents of the specification, including its claims.

3. I acknowledge my duty to disclose to the Office all information known to me to be material to patentability of this application, in accordance with 37 C.F.R. Section 1.56, which is defined on the attached page.

4. This application claims priority from U.S. provisional application Serial Number 60/082,953 filed April 24, 1998. I acknowledge my duty to disclose information of which I am aware which is material to the examination of this application, as defined in §1.56, which occurred between the filing date of the prior application and the filing date of this application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: 5/20/99

Residence and  
Post Office Address: James D. Marks  
107 Ardmore Road  
Kensington, CA 94707  
(Citizenship: USA)

A handwritten signature in dark ink, appearing to read "James D. Marks", written over a horizontal line.

Date: \_\_\_\_\_

Residence and Post Office Address: Marie Alix Poul  
165 Perralta Avenue, #5,  
San Francisco, CA 94110  
(Citizenship: France)

Date: \_\_\_\_\_

Residence and Post Office Address: Baltazar Becerril  
Retorno de Laurel  
#35 Colonia Morelo Cuernavaca  
62210 Morelos, Mexico  
(Citizenship: Mexico)

3

**Section 1.56 Duty to Disclose Information Material to Patentability.**

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is cancelled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§ 1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine:

(1) prior art cited in search reports of a foreign patent office in a counterpart application, and

(2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) It establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) It refutes, or is inconsistent with, a position the applicant takes in:

(i) Opposing an argument of unpatentability relied on by the Office, or

(ii) Asserting an argument of patentability.

A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.



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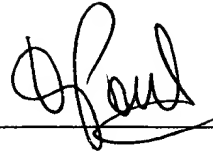
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Date: \_\_\_\_\_

James D. Marks  
Residence and 107 Ardmore Road  
Post Office Address: Kensington, CA 94707  
(Citizenship: USA)

Date: 31<sup>st</sup> May of 1999



Residence and Post Office Address: Marie Alix Poul  
165 Perralta Avenue, #5,  
San Francisco, CA 94110  
(Citizenship: France)

Date: \_\_\_\_\_

Residence and Post Office Address: Baltazar Becerril  
Retorno de Laurel  
#35 Colonia Morelo Cuernavaca  
62210 Morelos, Mexico  
(Citizenship: Mexico)

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(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

(1) Each inventor named in the application;

(2) Each attorney or agent who prepares or prosecutes the application; and

(3) Every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

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Date: \_\_\_\_\_

Residence and  
Post Office Address: James D. Marks  
107 Ardmore Road  
Kensington, CA 94707  
(Citizenship: USA)

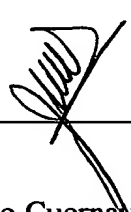
Date: \_\_\_\_\_

Residence and  
Post Office Address:

Marie Alix Poul  
165 Perralta Avenue, #5,  
San Francisco, CA 94110  
(Citizenship: France)

Date: May 25th, 1999

Residence and  
Post Office Address:

  
Baltazar Becerril  
Retorno de Laurel  
#35 Colonia Morelo Cuernavaca  
62210 Morelos, Mexico  
(Citizenship: Mexico)

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(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

CERTIFICATE UNDER 37 C.F.R. §3.73(b)



Applicants: James D. Marks et al.  
Serial No.: 09/249,529  
Filed: February 12, 1999  
For: METHODS OF SELECTING INTERNALIZING ANTIBODIES

The Regents of the University of California, a corporation certifies that it is the assignee of the entire right, title and interest in the patent application identified above by virtue of either:

☒ A. An assignment from the inventor(s) of the patent application identified above. A copy of the assignment is attached.

OR

☐ B. A chain of title from the inventor(s), of the patent application identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
2. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.
3. From: \_\_\_\_\_ To: \_\_\_\_\_  
The document was recorded in the Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ Copies of assignment or other documents in the chain of title are attached.

The undersigned (whose title is supplied below) is empowered to act on behalf of the assignee.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further, that these statements are made with the knowledge that willful false statements, and the like so made, are punishable by fine or imprisonment, or both, under Section 1001, Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Dated: June 1, 1999

Signature: \_\_\_\_\_

Linda S Stevenson

Principal Prosecution Analyst

## ASSIGNMENT

COPY

U.C. Case No. 98-232-2

For good and valuable consideration, the receipt of which is hereby acknowledge, ASSIGNORS,

1. James D. Marks
2. Marie Alix Poul
3. Baltazar Becerril

hereby sell, assign and transfer to ASSIGNEE, The Regents of the University of California, a California Corporation, having its statewide administrative offices located 1111 Franklin Street, Twelfth Floor, Oakland, California 94607-5200, and the successors, assigns and legal representatives of the ASSIGNEE all of its/their rights, title and interest for the United States and its territorial possessions and in all foreign countries in and to, any and all improvements which are disclosed in the invention entitled:

### METHODS OF SELECTING INTERNALIZING ANTIBODIES

and which is found in

- (a)        U.S. provisional application filed herewith and listing the above named person as inventor
- (b)        U.S. patent application filed herewith and listing the above named person as inventor
- (c)   X   U.S. application serial no. 09/249,529, filed on February 12, 1999
- (d)        U.S. Patent No.                                 , issued

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

ASSIGNORS hereby covenant that no assignment, sale, agreement or encumbrance has been or will be made or entered into which would conflict with this assignment;

ASSIGNORS further covenant that ASSIGNEE will, upon its request, be provided promptly with all pertinent facts and documents relating to said invention and said Letters Patent and legal equivalents as may be known and accessible to ASSIGNOR and will testify as to the same in any interference, litigation, or proceeding relating thereto and will promptly execute and deliver to ASSIGNEE or its legal representative any and all papers, instruments or affidavits required to apply for, obtain, maintain, issue or enforce said application, said invention and said Letters Patent and said equivalents thereof which may be necessary or desirable to carry out the purposes thereof. An attorney of record is authorized and requested by the execution of this assignment to insert into this assignment the filing date and serial number of said application when officially known.

AND the ASSIGNORS request the Commissioner of Patents and Trademarks to issue said Letters Patent of the United States and any reissue or extension thereof to the ASSIGNEE, The Regents of the University of California.

executed this

Signature of Inventors

20<sup>th</sup> day of May, 1999

James D. Marks

       day of       , 1999

Marie Alix Poul

       day of       , 1999

Baltazar Becerril



## ASSIGNMENT

COPY

U.C. Case No. 98-232-2

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### METHODS OF SELECTING INTERNALIZING ANTIBODIES

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(a) \_\_\_\_\_ U.S. provisional application filed herewith and listing the above named person as inventor

(b) \_\_\_\_\_ U.S. patent application filed herewith and listing the above named person as inventor

(c) X U.S. application serial no. 09/249,529, filed on February 12, 1999

(d) \_\_\_\_\_ U.S. Patent No. \_\_\_\_\_, issued \_\_\_\_\_

and any legal equivalent thereof in a foreign country, including the right to claim priority and, in and to, all Letters Patent to be obtained for said invention by the above application or any continuation, division, continuation-in-part, extension, conversion to 35 USC 111(a) substitute thereof, and any reissue, reexamination or extension of said Letters Patent and all rights under all International Conventions for the Protection of Industrial Property;

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executed this

Signature of Inventors

\_\_\_\_\_ day of \_\_\_\_\_, 1999

James D. Marks

31 day of May, 1999

Marie Alix Poul

\_\_\_\_\_ day of \_\_\_\_\_, 1999

Baltazar Becerril

#5

COPY

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executed this

Signature of Inventors

       day of                                 , 1999

James D. Marks

       day of                                 , 1999

Marie Alix Poul

25th day of May, 1999

Baltazar Becerril